

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

CYRUS R. SANDERS, :
: Plaintiff : No. 1:14-CV-00288
: vs. : (Judge Kane)
DOMINICK L. DEROSE, et al., :
: Defendants :

MEMORANDUM

Background

On February 18, 2014, Cyrus R. Sanders, an inmate at the State Correctional Institution, Somerset, Pennsylvania filed a complaint pursuant to 42 U.S.C. § 1983 against several individuals employed by Dauphin County, including Dominick L. DeRose, the Warden of the Dauphin County Prison. Doc. 1. Subsequently, the complaint was served and the Defendants filed a motion to dismiss the complaint for failure to state a claim. On September 30, 2015, the court issued an order granting that motion but authorized Sanders to file an amended complaint within thirty (30) days of the date of the order, i.e., by October 30, 2015.

Sanders signed an amended complaint on October 28, 2015, and it was untimely received in the Clerk's Office in Harrisburg on November 2, 2015. Doc. 34, at 15. Sander is no longer an inmate but currently resides at 104 Ringtown Mountain Rd.,

Catawissa, Pennsylvania,¹ and does not receive the benefit of the prison mailbox rule² or the three additional days under Federal Rule of Civil Procedure 6(d) which only applies to situations where "a party may or must act within a specified time after service" of a document. The order of September 30, 2015, specifically indicated that Sanders was to act within 30 days of the date of the order, not service of the order. Furthermore, a review of the amended complaint reveals that it is not substantially different from the original complaint. Consequently, the court will dismiss the amended complaint as untimely filed and direct the Clerk of Court to close the case.

An appropriate order will be entered.

1. Sanders notified the court of this change of address on January 14, 2015. Doc. 28.

2. Under the prison mailbox rule, a filing by an inmate is completed when the complaint, petition or other document is deposited with the prison mailing system. Houston v. Lack, 487 U.S. 266 (1988).